

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRIAN MCBETH,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.

19 Civ. 7825 (PAE) (OTW)
16 Cr. 317-7 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

Pro se petitioner Brian McBeth filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. 2255 on August 19, 2019. Dkt. 1. On August 22, 2019, this Court referred the case to the Hon. Ona T. Wang, United States Magistrate Judge, Dkt. 2, who ordered the Government to respond, Dkt. 4. On October 28, 2019, the Government responded. Dkt. 13. On January 4, 2022, Judge Wang issued her Report and Recommendation to this Court. Dkt. 14 (“Report”).

DISCUSSION

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

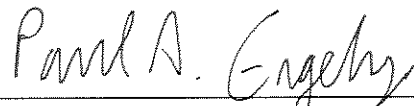
As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Wang’s thorough and well-reasoned Report reveals no facial error in its

conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that the “parties shall have fourteen days” to object and “failure to file these objections . . . will result in a waiver of objections and will preclude appellate review,” Report at 18, the parties’ failure to object operates as a waiver of appellate review, *see Caidor v. Onondaga Cnty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec’y of Health & Hum. Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)). The Court, therefore, adopts the Report in its entirety.

CONCLUSION

For the foregoing reasons, the petition for habeas corpus is denied. The Court declines to issue a certificate of appealability and certifies that any appeal from this order would not be taken in good faith; therefore, *in forma pauperis* status is denied for purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). The Clerk of Court is respectfully directed to close the motion pending at docket entry 1 and mail a copy of this decision to plaintiff at the address on file.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: February 24, 2022
New York, New York